

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
James R. Farlow)	EB-98-NF-438
103 Browning Drive)	
Thomasville, NC 27360-3239)	NAL/Acct. No. 915NF0001

MEMORANDUM OPINION AND ORDER

Adopted: March 2, 2000

Released: March 3, 2000

By the Chief, Enforcement Bureau:

1. In this Memorandum Opinion and Order, we grant reconsideration of the *Forfeiture Order*¹ issued in this case for the limited purpose of addressing one issue that Mr. James Farlow has raised in response to both the underlying Notice of Apparent Liability ("NAL") and the *Forfeiture Order*. The NAL proposed and the *Forfeiture Order* affirmed imposition of a forfeiture against Mr. Farlow in the amount of \$7,000, pursuant to Section 503(b) of the Communications Act of 1934, as amended, ("the Act"), 47 U.S.C. § 503(b), and Section 1.80 of the Commission's Rules, ("the Rules"), 47 C.F.R. § 1.80, for willful violation of Section 303(n) of the Act, 47 U.S.C. § 303(n), and Section 95.426 of the Rules (CB Rule 26), 47 C.F.R. § 95.426. For the reasons stated below, we affirm the \$7,000 forfeiture amount.

2. The Bureau's Norfolk, Virginia, office received a complaint that Mr. Farlow's citizen's band ("CB") radio was causing interference to home electronic equipment. The complaint also contained allegations of use of a linear amplifier by Mr. Farlow in violation of the rules governing the CB radio service, 47 C.F.R. §§ 95.401 – 95.428. After receiving another complaint concerning Mr. Farlow's CB radio operation, an agent from the Norfolk Office went to Thomasville, North Carolina, to investigate the complaint.

3. The agent confirmed that the interference was continuing and went to Mr. Farlow's residence to inspect the CB installation. Once at the Farlow residence, the agent noticed a truck in the driveway with a CB radio inside. He then knocked on the door of the Farlow residence and was met by Mr. Farlow. The agent requested permission to inspect the CB radio installation inside the residence but Mr. Farlow refused to allow the inspection. This fact is not in dispute. According to the agent, he then requested permission to inspect the CB installation in the truck but was not allowed to do so. As a consequence of the failed inspection attempts, the staff issued an NAL for \$7,000. Mr. Farlow has always maintained that he never refused permission to inspect the truck and that the agent never requested to inspect the CB radio inside the truck.

4. The *Forfeiture Order* states that Mr. Farlow "does not offer an explanation as to why he denied the agent entry to inspect his truck." We are granting reconsideration to acknowledge that Mr. Farlow did provide such an explanation insofar as he contends that he did not refuse inspection. However, although we are granting partial reconsideration to correct the record, this action does not affect the amount of the forfeiture. There is evidence in the record that there was a CB radio installation in the Farlow residence. Mr. Farlow did not allow the inspection of that installation, in

¹ 14 FCC Rcd 4092 (Compl. & Inf. Bur. 1999).

itself a clear violation of Section 303(n) of the Act and Section 95.426 of the Rules. Because the NAL was issued for \$7,000, the base amount for one violation, the *Forfeiture Order* affirming assessment of a forfeiture in that amount was not incorrect. The staff addressed all the remaining issues and properly decided them in the Forfeiture Order. We therefore affirm the staff's decision reached in the Forfeiture Order.

5. Accordingly, pursuant to Section 405 of the Act, 47 U.S.C. § 405, the petition for reconsideration of the *Forfeiture Order* in this proceeding is hereby GRANTED to the extent indicated above and is otherwise DENIED.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau